Assembly Bill No. 1331

Passed the Assembly August 25, 2000

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Chief Clerk of the Assembly

Passed the Senate August 23, 2000

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Secretary of the Senate

This bill was received by the Governor this _____ day

of _____, 2000, at _____ o'clock ____M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 7507.4 of the Business and Professions Code, to amend Sections 1748.10, 1748.11, 1748.22, 1788, 1810.20, and 1810.21 of the Civil Code, to amend Section 22 of the Financial Code, to amend Sections 16265, 76219, and 76245 of the Government Code, to amend Sections 1067.05, 1067.055, and 11628 of the Insurance Code, to amend Section 1656.2 of the Vehicle Code, and to repeal Section 3 of Chapter 569 of the Statutes of 1974, relating to governmental regulation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1331, Papan. Governmental regulation.

Existing law provides for the enactment or establishment of various acts, funds, or entities, including the Robbins-Rosenthal Fair Debt Collection Practices Act, the Areias-Robbins Credit Card Full Disclosure Act of 1986, the Areias-Robbins Retail Installment Account Full Disclosure Act of 1986, the Robbins-Vuich-Calderon Financial Institutions Act of 1986, the Robbins Courthouse Construction Fund, the Robbins-Nielsen County Revenue Stabilization Act of 1987, the Statham-Robbins Courthouse Construction Fund, the Robbins-Seastrand Health Insurance Guaranty Association, the Rosenthal-Robbins Auto Insurance Nondiscrimination Law, the Robbins-McAlister Financial Responsibility Act, and the Robbins Rape Evidence Law.

This bill would rename, or delete the name of, these acts, funds, and entities excluding reference to the name ''Robbins.''

The people of the State of California do enact as follows:

SECTION 1. Section 7507.4 of the Business and Professions Code is amended to read:

7507.4. A licensed repossession agency or its registrants may make demand for payment in lieu of

repossession, if the demand is made pursuant to an assignment for repossession.

In making demand upon a debtor for a money payment in lieu of repossession, the repossessor shall present the demand in compliance with the Rosenthal Fair Debt Collection Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), setting forth in the demand only the amount that was specified by the creditor in the repossession referral and the fees that are properly chargeable. Itemized receipts shall be furnished the debtor at the time payment is received. Payments received shall forthwith be transmitted to the creditor, disclosing the full amount of money received from the debtor in addition to the contract payments.

SEC. 2. Section 1748.10 of the Civil Code is amended to read:

1748.10. This act shall be known and may be cited as the ''Areias Credit Card Full Disclosure Act Of 1986.''

SEC. 3. Section 1748.11 of the Civil Code is amended to read:

1748.11. (a) Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes which is mailed on or after October 1, 1987, to a consumer residing in this state by or on behalf of a creditor, whether or not the creditor is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that may be applied to the account, expressed as an annual percentage rate or rates. If the account is subject to a variable rate, the creditor may instead either disclose the rate as of a specific date and indicate that the rate may vary, or identify the index and any amount or percentage added to, or subtracted from, that index and used to determine the rate. For purposes of this section, that amount or percentage shall be referred to as the ''spread.''

(B) Any membership or participation fee that may be imposed for availability of a credit card account, expressed as an annualized amount.

(C) Any per transaction fee that may be imposed on purchases, expressed as an amount or as a percentage of the transaction, as applicable.

(D) If the creditor provides a period during which the consumer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the creditor or from merchants participating in the credit card plan, without the imposition of additional finance charges, the creditor shall either disclose the number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the consumer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the ''free period'' or ''free-ride period.'' If the creditor does not provide such a period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z.

(b) A creditor need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a creditor who elects not to use such a chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the creditor, or if the creditor presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS CREDIT CARD FULL DISCLOSURE ACT OF 1986:
INTEREST RATES, FEES, AND FREE–RIDE PERIOD FOR PURCHASES UNDER THIS CREDIT CARD ACCOUNT

ANNUAL PER-CENTAGE RATE (1)	VARIABLE RATE INDEX AND SPREAD (2)	ANNUAL-IZED MEMBER-SHIP OR PAR-TICI-PATION FEE	TRANS-ACTION FEE	FREE–RIDE PERIOD (3)

(1) For fixed interest rates. If variable rate, creditor may elect to disclose a rate as of a specified date and indicate that the rate may vary.

(2) For variable interest rates. If fixed rate, creditor may eliminate the column, leave the column blank, or indicate ''No'' or ''None'' or ''Does not apply.''

(3) For example, ''30 days'' or ''Yes, if full payment is received by next billing date'' or ''Yes, if full new balance is paid by due date.''

(c) For purposes of this section, ''Regulation Z'' has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.). For the purposes of this section, ''open-end

credit card account'' does not include an account accessed by a device described in paragraph (2) of subdivision (a) of Section 1747.02.

(d) Nothing in this section shall be deemed or construed to prohibit a creditor from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section.

(e) If a creditor is required under federal law to make any disclosure of the terms applicable to a credit card account in connection with application forms or solicitations, the creditor shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the creditor complies with the federal disclosure requirement. For example, in lieu of complying with the requirements of paragraph (1) of subdivision (a), a creditor has the option of disclosing the specific terms required to be disclosed in an advertisement under Regulation Z, if the application forms or solicitations constitute advertisements in which specific terms must be disclosed under Regulation Z.

(f) If for any reason the requirements of this section do not apply equally to creditors located in this state and creditors not located in this state, then the requirements applicable to creditors located in this state shall automatically be reduced to the extent necessary to establish equal requirements for both categories of creditors, until it is otherwise determined by a court of law in a proceeding to which the creditor located in this state is a party.

(g) All application forms for an open-end credit card account distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias Credit Card Full Disclosure Act of 1986, check here and return to the address on this application.''

A box shall be printed in or next to this statement for placement of such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

(h) This title does not apply to any application form or written advertisement or an open-end credit card account where the credit to be extended will be secured by a lien on real or personal property or both real and personal property.

(i) This title does not apply to any person who is subject to Article 10.5 (commencing with Sec. 1810.20) of Chapter 1 of Title 2.

SEC. 4. Section 1748.22 of the Civil Code is amended to read:

1748.22. (a) On and after October 1, 1987, issuers of charge cards shall clearly and conspicuously disclose in any charge card application form or preapproved written solicitation for a charge card mailed to a consumer who resides in this state to apply for a charge card, whether or not the charge card issuer is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the charge card issuer, the following information:

(1) Any fee or charge assessed for or which may be assessed for the issuance or renewal of the charge card, expressed as an annualized amount. The fee or charge required to be disclosed pursuant to this paragraph shall be denominated as an ‘‘annual fee.’’

(2) The charge card does not permit the charge cardholder to defer payment of charges incurred by the use of the charge card upon receipt of a periodic statement of charges from the charge card issuer.

(3) Any fee that may be assessed for an extension of credit to a charge cardholder where the extension of credit is made by the charge card issuer, and is not a credit sale and where the charge cardholder receives the extension of credit in the form of cash or where the charge cardholder obtains the extension of credit through

the use of a preprinted check, draft, or similar credit device provided by the charge card issuer to obtain an extension of credit. This fee shall be denominated as a ‘‘cash advance fee’’ in the disclosure required by this paragraph.

(b) A charge card issuer shall be conclusively presumed to have complied with the disclosure requirements of subdivision (a) if the table set out in subdivision (b) of Section 1748.11 is completed with the applicable terms offered by the charge card issuer in a clear and conspicuous manner and the completed table in subdivision (b) of Section 1748.11 is then provided to the person invited to apply for the charge card as a part of or in material which accompanies the charge card application or written advertisement which invites a person to apply for a charge card.

The charge card issuer shall include as part of table set out in subdivision (b) of Section 1748.11 the following sentences in the boxes or in a footnote outside of the boxes that relate to the interest rate disclosure: ‘‘This is a charge card which does not permit the charge cardholder to pay for purchases made using this charge card in installments. All charges made by a person to whom the charge card is issued are due and payable upon the receipt of a periodic statement of charges by the charge cardholder.’’

The inclusion or exclusion of an expiration date with table set out in subdivision (b) of Section 1748.11 or the use of footnotes in the boxes of the table to set out the information required to be disclosed by this section outside of the boxes of the table set out in subdivision (b) of Section 1748.11 shall not affect the conclusive presumption of compliance pursuant to this subdivision. If a charge card issuer does not offer or require one of the selected attributes of credit cards in the table set out in subdivision (b) of Section 1748.11 the charge card issuer shall employ the phrase in the appropriate box or in the appropriate footnote ‘‘Not offered’’ or ‘‘Not required’’ or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a). If one of the selected

attributes of charge cards required to be disclosed pursuant to subdivision (a) is not applicable to the charge card issuer, the charge card issuer may employ in the appropriate box or in the appropriate footnote outside of the box in the table set out in subdivision (b) of Section 1748.11 the phrase ''Not applicable'' or a substantially similar phrase without losing the conclusive presumption of compliance with the requirements of subdivision (a).

(c) Nothing in this section shall be deemed or construed to prohibit a charge card issuer from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section by subdivision (a) or in connection with the disclosure provided in subdivision (b), in conjunction with the disclosures required by this section.

(d) If the charge card issuer offers to the charge cardholder any program or service under which the charge cardholder may elect to access open-end credit, the charge card issuer shall provide to the charge cardholder, before the charge cardholder has the right to access that credit, the initial disclosure statement required by Regulation Z, as defined in subdivision (c) of Section 1748.10.

(e) All charge card application forms distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias Charge Card Full Disclosure Act of 1986, check here and return to the address on this application.''

A box shall be printed in or next to this statement for placing such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

SEC. 5. Section 1788 of the Civil Code is amended to read:

1788. This title may be cited as the Rosenthal Fair Debt Collection Practices Act.

SEC. 6. Section 1810.20 of the Civil Code is amended to read:

1810.20. This article shall be known and may be cited as the ''Areias Retail Installment Account Full Disclosure Act of 1986.''

SEC. 7. Section 1810.21 of the Civil Code is amended to read:

1810.21. (a) Any application form or preapproved written solicitation for a credit card issued in connection with a retail installment account which is mailed on or after October 1, 1987, to a retail buyer residing in this state by or on behalf of a retail seller, whether or not the retail seller is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the retail seller, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that will be used to determine the finance charge imposed on the balance due under the terms of a retail installment account, expressed as an annual percentage rate or rates.

(B) Any membership or participation fee that will be imposed for availability of a retail installment account in connection with which a credit card is issued expressed as an annualized amount.

(C) If the retail seller provides a period during which the retail buyer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the retail seller without the imposition of additional finance charges, the retail seller shall either disclose the minimum number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the retail buyer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the ''free period'' or ''free-ride period.'' If the retail seller does not provide

such a period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z (12 C.F.R. 226.6).

(b) In the event that an unsolicited application form is mailed or otherwise delivered to retail buyers in more than one state, the requirements of subdivision (a) shall be satisfied if on the application form or the soliciting material there is a notice that credit terms may vary from state to state and which provides either the disclosures required by subdivision (a) or an address or phone number for the customer to use to obtain the disclosure. The notice shall be in boldface type no smaller than the largest type used in the narrative portion, excluding headlines, of the material soliciting the application. Any person responding to the notice shall be given the disclosures required by subdivision (a).

(c) A retail seller need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a retail seller who elects not to use the chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the retail seller, or if the retail seller presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS RETAIL INSTALLMENT ACCOUNT FULL DISCLOSURE ACT OF 1986:
CREDIT CARD TERMS VARY AMONG RETAIL SELLERS—SELECTED TERMS FOR PURCHASES UNDER THIS RETAIL INSTALLMENT ACCOUNT ARE SET OUT BELOW

PERIODIC RATES (as APRs)	ANNUAL FEES	FREE–RIDE PERIOD

(d) For purpose of this section, ‘‘Regulation Z’’ has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. Sec. 226.1 et seq.).

(e) Nothing in this section shall be deemed or construed to prohibit a retail seller from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section. Notwithstanding subdivision (g) of Section 1748.11, a retail seller that complies with the requirements of Section 1748.11 shall be deemed to have complied with the requirements of this section.

(f) If a retail seller is required under federal law to make any disclosure of the terms applicable to a retail installment account in connection with application forms or solicitations, the retail seller shall be deemed to have

complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the retail seller complies with the federal disclosure requirement.

(g) If the disclosure required by this section does not otherwise appear on an application form or an accompanying retail installment agreement distributed in this state on or after October 1, 1987, other than by mail, the application form shall include a statement in substantially the following form:

''If you wish to receive disclosure of the terms of this retail installment account, pursuant to the Areias Retail Installment Account Full Disclosure Act of 1986, check here and return to the address on this form.''

A box shall be printed in or next to this statement for placing such a checkmark.

(h) This article does not apply to (1) any application form or preapproved written solicitation for a retail installment account credit card where the credit to be extended will be secured by a lien on real or personal property, or both real and personal property, (2) any application form or written solicitation which invites a person or persons to apply for a retail installment account credit card and which is included as part of a catalog which is sent to one or more persons by a creditor in order to facilitate a credit sale of goods offered in the catalog, (3) any advertisement which does not invite, directly or indirectly, an application for a retail installment account credit card, and (4) any application form or written advertisement included in a magazine, newspaper, or other publication distributed in more than one state by someone other than the creditor.

SEC. 8. Section 22 of the Financial Code is amended to read:

22. Notwithstanding any other provision of this code, Chapter 10 (commencing with Section 10000) of Division 2 shall be known and may be cited as the Vuich-Calderon Financial Institutions Act of 1986.

SEC. 9. Section 16265 of the Government Code is amended to read:

16265. This chapter shall be known and may be cited as the ''Bergeson-Costa-Nielsen County Revenue Stabilization Act of 1987.''

SEC. 10. Section 76219 of the Government Code is amended to read:

76219. (a) The Courthouse Construction Fund established in Los Angeles County pursuant to Section 76100 shall be known as the Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed and owed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (b) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse

with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District.

(d) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the West Los Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena Judicial District, within the Southeast Municipal Court District, within the South Bay Judicial District, within the Santa Monica Judicial District, within the Antelope Valley Judicial District, or within the Long Beach Judicial District until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, and the South Bay Judicial District, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction of new facilities for the superior and municipal courts in the Santa Monica Judicial District, the Antelope Valley Judicial District, and the Long Beach Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San

Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) The moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirement of subdivision (b) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (d).

(g) Deposits into the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is selected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

SEC. 11. Section 76245 of the Government Code is amended to read:

76245. (a) The fund established in Shasta County pursuant to Section 76200 shall be known as the Statham Courthouse Construction Fund.

(b) The fund established in Shasta County pursuant to Section 76101 shall be known as the Statham Criminal Justice Facilities Construction Fund.

SEC. 12. Section 1067.05 of the Insurance Code is amended to read:

1067.05. (a) A nonprofit legal entity to be known as the California Life and Health Insurance Guarantee Association shall exist as a result of the merger of the Seastrand Health Insurance Guaranty Association with and into the California Life Insurance Guaranty Association pursuant to Section 1067.055. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under Section 1067.09 and shall exercise its powers through a board of directors established under Section 1067.06. For purposes of administration and assessment, the association shall maintain the following three accounts:

(1) The life insurance account.

(2) The annuity account.

(3) The health insurance account.

(b) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened to the public upon majority vote of the board of directors of the association.

SEC. 13. Section 1067.055 of the Insurance Code is amended to read:

1067.055. In order to provide for the merger of the Seastrand Health Insurance Guaranty Association with and into the California Life Insurance Guaranty Association, the following shall apply:

(a) Notwithstanding the repeal of the California Life Insurance Guaranty Association Act and the Seastrand Health Insurance Guaranty Association Act, the Seastrand Health Insurance Guaranty Association shall, effective immediately prior to that repeal, be merged with and into the California Life Insurance Guaranty Association, which shall then be known as the California Life and Health Insurance Guarantee Association.

(b) Notwithstanding the repeal of the California Life Insurance Guaranty Association Act and the Seastrand Health Insurance Guaranty Association Act, but subject to the last sentence of this subdivision, all of the following shall apply:

(1) The association shall succeed, without other transfer, to all the rights, powers, privileges, assets, and property of each of the California Life Insurance Guaranty Association and the Seastrand Health Insurance Guaranty Association, which for the purposes of this section shall be referred collectively as the merging associations. The association shall be subject to all debts, obligations, and liabilities of each merging association in the same manner as if the association had itself incurred them, in each case under the law in effect prior to the effective date of this article, as those rights, powers, privileges, obligations, debts, and liabilities may be amended and restated in this article, including, without limitation, the extension of coverage with respect to unallocated contracts as provided in subparagraph (D) of paragraph (2) of subdivision (b) of Section 1067.02, and in each case with respect to member insurers that became impaired insurers or insolvent insurers prior to the effective date of this article and after October 1, 1990. Without limiting the generality of the foregoing, the association shall succeed to (A) all collected, uncollected, or unbilled assessments of the merging associations, (B) all cash, bank accounts, and accrued interest of the merging associations, (C) all rights, powers, privileges, and obligations of the merging associations under any contracts or commitments of the merging association, (D) all subrogations, assignments, and creditor rights and interests of the merging associations, and (E) all rights, powers, privileges, and obligations of each of the trusts established on December 31, 1993, by each of the merging associations as settlor.

(2) All rights of creditors and all liens upon the property of each of the merging associations shall be preserved unimpaired, provided that the liens upon property of a merging association shall be limited to the

property affected thereby immediately prior to the effective date of this article.

(3) Any action or proceeding pending by or against a merging association may be prosecuted to judgment, which shall bind the association, or the association may be proceeded against or be substituted in its place.

Notwithstanding the other provisions of this subdivision, all debts, obligations, and liabilities of a merging association that were to be paid out of a specified account of the merging association shall be paid solely out of the assets of that merging association that were available to that merging association to pay those debts and liabilities, including, without limitation, collected, uncollected, or unbilled assessments, and any and all subrogation, assignment, and creditor rights, or out of assets in the same type of account of the association.

(c) Notwithstanding any other provision to the contrary in this article:

(1) It is the intent of this section to preserve rights, powers, privileges, assets, property, debts, obligations, and liabilities of each of the merging associations, and not to provide contractholders and policyholders, or their respective payees, beneficiaries, or assignees, with duplicative rights, powers, privileges, assets, or property.

(2) Accordingly, no contractholder and policyholder, and no contractholder's or policyholder's payee, beneficiary, or assignee, shall be entitled to (A) a recovery from the association that is duplicative of a previous recovery from either of the merging associations, or the trust established by either merging association, or (B) a recovery from the association on account of a claim against either of the merging associations where the association is liable with respect to a claim under the same policy or contract under this article.

SEC. 14. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to

accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

As used in this section ‘‘geographic area’’ means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under $1^{1}/_{2}$-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted annually to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. That report shall include the insurer’s statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide

expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination. However, the data shall be released in aggregate form by ZIP Code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

All information reported to the department pursuant to this subdivision shall be confidential.

As used in this section, (1) ''language'' means the inability to speak, read, write, or comprehend the English language, (2) ''dependents'' shall include, but not be limited to, issue regardless of generation, and (3) ''spouse'' shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

Nothing in this section shall prohibit an insurer from:

(1) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or

discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(2) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if: (A) the majority of his or her employment during the previous year was in the occupation, or (B) the majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation, or (C) the person is a member in good standing of a union which is an authorized collective bargaining agent for persons engaged in the occupation.

Nothing in this section shall be construed to include in the definition of ‘‘occupation’’ any status or activity which does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant’s or insured’s place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel such insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle’s size, weight, design, or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(f) (1) Except as provided in Article 4 (commencing with Section 11620), nothing in this section or in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 or in any other provision of this code, shall prohibit an insurer from limiting the issuance or renewal of insurance as defined in subdivision (a) of Section 660 to persons who engage in, or have formerly engaged in, governmental or military service or segments of categories thereof, and their spouses, dependents, and former dependents or spouses.

(2) The term ''military service'' includes, but is not limited to, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) This section shall be known and may be cited as the ''Rosenthal Auto Insurance Nondiscrimination Law.''

SEC. 15. Section 1656.2 of the Vehicle Code is amended to read:

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Section 16000, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain, but is not limited to, the following wording:

''IMPORTANT FACTS ABOUT ENFORCEMENT OF CALIFORNIA'S COMPULSORY FINANCIAL RESPONSIBILITY LAW

The McAlister Financial Responsibility Act requires every driver to maintain proof of valid automobile liability insurance, bond, cash deposit, or self-insurance

which has been approved by the Department of Motor Vehicles.

You must provide proof of financial responsibility after you are cited by a peace officer for a traffic violation. The act requires that you provide the officer with the name of your insurer and the policy identification number. Your insurer will provide written evidence of this number. The back of your vehicle registration form contains a space for writing this information. Failure to prove your financial responsibility can result in fines of up to two hundred forty dollars ($240) and loss of your driver's license. Falsification of proof can result in fines of up to five hundred dollars ($500) or 30 days in jail, or both.

Under existing law, if you are involved in an accident that results in damages over five hundred dollars ($500) or in any injury or fatality, you must file a report of the accident with the Department of Motor Vehicles within 10 days of the accident. If you fail to file a report or fail to provide evidence of financial responsibility on the report, your driving privilege will be suspended for one year. Your suspension notice will notify you of the department's action and of your right to a hearing. Your suspension notice will also inform you that if you request a hearing, it must be conducted within 30 days of your written request, and that a decision is to be rendered within 15 days of the conclusion of the hearing.''

SEC. 16. Section 3 of Chapter 569 of the Statutes of 1974 is repealed.

Approved _____, 2000

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Governor